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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SAN JOAQUIN

11 ADELINO PEREZ TORRES, VIRGINIO  
12 SANTOS CANTORAN, MIGUEL PEREZ  
RAZO, CESAR NICHOLAS SICAIROS  
13 SERRANO, SAUL LOPEZ RODRIGUEZ,  
14 ELIBER AGUILAR JIMENEZ, ADALIR  
AGUILAR, ARTURO PEREZ RAMIREZ,  
15 and JOSE ANIBAL AGUILAR, On Behalf of  
Themselves, On Behalf of All Others Similarly  
16 Situated and On Behalf of the General Public  
as Private Attorney General,

17  
18 Plaintiffs,

19 vs.

20 ABBATE FAMILY FARMS LIMITED  
PARTNERSHIP dba ABATTE FARMS;  
21 ALIA CORPORATION dba McDONALD's  
RESTAURANTS; PAUL ABBATE, an  
22 individual; and DOES 1-100, inclusive,

23  
24 Defendants.

Case No.: 39-2012-00288653-CU-OE-  
STK

*ARK*  
~~PROPOSED~~ ORDER OF FINAL  
APPROVAL OF SETTLEMENT

25 Before the Court are Plaintiff Adelino Torres Abbate's Motion for Final Approval of Class  
26 Action Settlement and Motion for Attorneys' Fees, Costs and Enhancer. Defendants Abbate  
27 Family Farms Limited Partnership (aka Abbate Farms), Alia Corporation, and Paul Abbate  
28 (collectively referred to as "Defendants") filed statements of non-opposition to the relief requested.

Filed *RJ* AUG 09 2013  
ROSA JUNQUEIRO, CLERK  
By *Allen Little*  
DEPUTY

1 The court held a fairness and good faith determination hearing on August 2, 2016. Present  
2 at the hearing on behalf of Plaintiff and as Class Counsel were Robert J. Wasserman and John P.  
3 Briscoe of Mayall Hurley P.C. Defendants were represented by Andrew H. Lee, Esq. For the  
4 reasons set forth below, after fully considering all supporting papers, declarations, evidence and  
5 arguments, the Court hereby grants Plaintiff's Motion for Final Approval of Class Action  
6 Settlement and Motion for Attorneys' Fees, Costs and Enhancer, and makes the following  
7 determinations and Orders:

8 **A. SUMMARY OF CLASS ACTION PROCEEDINGS**

9 Plaintiff and Class Representative Adelino Perez Torres filed this class action lawsuit on  
10 October 11, 2012, against Defendants Abbate Family Farms Limited Partnership, Alia Corporation,  
11 and Paul Abbate. The class action was brought under California law on behalf of all individuals,  
12 numbering just under 1,500, who worked for Defendants at any time between October 11, 2008  
13 and April 30, 2012 as Harvest Crew Workers. Plaintiff alleges, inter alia, that Defendants failed to  
14 pay minimum wage for all hours worked, failed to pay overtime wages as appropriate, failed to  
15 provide meal and rest breaks, improperly took deductions from employees' wages to replace or  
16 repair equipment, failed to maintain accurate wage statements, and failed to timely pay wages.

17 After several years of intense litigation, the Court granted Plaintiff's Motion for Class  
18 Certification on May 20, 2015. On September 23, 2016, the Parties participated in a mediation  
19 with, Jeffrey A. Ross, Esq., a nationally-recognized mediator specializing exclusively in  
20 employment litigation, including class actions. At the close of that mediation, the Parties came to a  
21 memorandum of understanding, which led to the Settlement. ON March 2, 2016, the Court granted  
22 preliminary approval of the Settlement. Since that time, the Claims Administrator has distributed  
23 notice to the Class Members in accordance with the Court's Order. The Class has responded  
24 incredibly favorably to the Settlement with zero Class Member objecting to any of the terms of the  
25 Settlement or opting out. This positive response, in conjunction with the substantial monetary  
26 relief provided and other factors detailed below, confirms that the proposed Settlement is fair,  
27 reasonable and adequate, should be and hereby is given final approval by this Court.

28 ///

1 **B. LEGAL STANDARD**

2 A class action may not be dismissed, compromised or settled without approval of the Court.  
3 Civil Code § 1781(f); Cal. Rules of Court, Rule 3.769; Fed. R. Civ. P. 23(e). In passing on a class  
4 action settlement, a Court must determine whether a proposed settlement is “fair, adequate, and  
5 reasonable.” Fed. R. Civ. P. 23(e). In doing so, a Court must consider a number of factors  
6 including: (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity and likely  
7 duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4)  
8 the amount offered in settlement; (5) the extent of discovery completed and the stage of the  
9 proceedings; (6) the experience and views of counsel; and (7) the reaction of the class members to  
10 the proposed settlement. *Hanlon v. Chrysler Corporation* (9<sup>th</sup> Cir. 1998) 150 F.3d 1011, 1026;  
11 *Dunk v. Ford Motor Company* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1802. Adequate notice is also critical  
12 to court approval of a class settlement. *Hanlon*, 150 F.3d at 1025.

13 **C. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE.**

14 State and Federal Law strongly favors and encourages settlements, especially in class  
15 actions. See *Neary v. Regents of Univ. of California* (1992) 3 Cal. 4<sup>th</sup> 273, 277-281; *Stambaugh v.*  
16 *Superior Court* (1976) 62 Cal.App.3d 231, 326 and *Franklin v. Kaypro Corp.* (9<sup>th</sup> Cir. 1989) 884  
17 F.2d 1222, 1229. Accordingly, Courts have “wide discretion in assessing the weight and  
18 applicability of each factor.” *Nat’l Rural Telecomms. Coop. v. DirectTV, Inc.* (C.D. Cal. 2004) 221  
19 F.R.D. 523, 526. These factors are not exclusive, and one factor may deserve more weight than the  
20 others depending on the circumstances. *Officers for Justice* (9<sup>th</sup> Cir. 1982) 688 F.2d 615, 625. In  
21 some instances, “one factor alone may prove determinative in finding sufficient grounds for court  
22 approval.” *Nat’l Rural Telecomms. Coop.*, 221 F.R.D. at 525-26, citing *Torrisi v. Tucson Elec.*  
23 *Power Co.* (9<sup>th</sup> Cir. 1993) 8 F.3d 1370, 1375-76. It is the settlement taken as a whole—rather than  
24 its component parts—that must be reviewed for overall fairness. The fact that “the settlement  
25 could have been better . . . does not mean the settlement presented was not fair, reasonable or  
26 adequate.” *Hanlon*, 150 F.3d at 1026-1027. As set forth below, and outlined in Plaintiff’s Motion  
27 for Final Approval, the Settlement in this matter fair, adequate, and reasonable and the Class has  
28 received adequate notice thereof.

1           **1. The Class Received Adequate Notice of the Settlement.**

2           "[T]he class must be notified of a proposed settlement in a manner that does not  
3 systematically leave any group without notice." *Officers for Justice*, 688 F. 2d at 624. Here,  
4 the Claims Administrator fulfilled its duties in distributing the Court-approved Notice of Pendency  
5 to Class Members via first class mail and performed address traces to re-mail any notices that were  
6 returned as undeliverable. The Claims Administrator and Class Counsel also took additional steps  
7 to ensure that the Class received notice of this Settlement, establishing a toll-free number,  
8 answering Class Member questions in both English and Spanish, and providing Spanish-language  
9 Notices. The cumulative effect of these efforts confirms that the Parties have sufficiently provided  
10 the best practicable notice to the Class.

11           **2. The Strengths of Plaintiff's Case and the Risks of Proceeding with Litigation**  
12           **Support Final Approval.**

13           The Court concludes that the Settlement is fair, reasonable, and adequate in light of the  
14 strength of Plaintiff's claims and the risks faced with continued litigation. Approval of a class  
15 settlement is proper when "there are significant barriers plaintiffs must overcome in making  
16 their case." *Chun-Hoon v. McKee Foods Corp.* (N.D. Cal. 2010) 716 F. Supp. 2d 848, 851.

17           In Class Counsel's view, Plaintiff's claims are strong. Plaintiff believes there is  
18 substantial evidence in the record from which the trier of fact could conclude that Defendants  
19 engaged in a pattern and practice of underpaying their employees, failing to provide meal and  
20 rest breaks and making improper deductions to their wages.

21           On the other hand, Plaintiff acknowledges that he faces various risks in proceeding with  
22 litigation. While the Court granted Plaintiff's Motion for Class Certification, its ruling also  
23 raised concerns about whether one or more of the subclasses might be decertified if individual  
24 issues became unmanageable. In addition, Defendants expressed vehement disagreement with  
25 the certification of the Class and, if litigation continued, would likely appeal the same.  
26 Plaintiff also faced the risk that the civil penalties sought under the PAGA could be reduced if  
27 the Court determined that imposition of full penalties would be unjust, arbitrary, oppressive or  
28 confiscatory. See Lab. Code § 2699(e)(2).

1 The strength of Plaintiff's class as well as the risks of partial decertification, an adverse  
2 appellate opinion and/or a possible reduction in the civil penalties available under the PAGA weigh  
3 in favor of final approval of the Settlement.

4 **3. The Likely Expense and Duration of Further Litigation Favor Final Approval.**

5 "Settlement avoids the complexity, delay, risk and expense of continuing with the litigation  
6 and will produce a prompt, certain, and substantial recovery for the Plaintiff class." *Eddings v.*  
7 *Health Net, Inc.* (C.D. Cal. June 13, 2013) No. CV 10-1744-JST RZX, 2013 WL 3013867, at \*3  
8 (internal citation and quotation omitted). There is a significant advantage of receiving a benefit  
9 now as opposed to later. Were this matter to proceed, Plaintiff could expect a motion for  
10 summary judgment, a challenge to the Court's certification of the class and subclasses, a vigorous  
11 and lengthy trial of Plaintiff's claims and appellate proceedings. This factor favors approval.

12 **4. The Risk of Maintaining Class Action Status Throughout Trial Favors**  
13 **Approval.**

14 As set forth above, Plaintiff faces several risks regarding the maintenance of class status  
15 throughout trial – including the possibility of one or more of the subclasses being decertified if  
16 individual issues become unmanageable – which favor approval of the settlement.

17 **5. The Amount Offered to Settle the Claim is Substantial and Weighs in Favor of**  
18 **Final Approval.**

19 Here the Settlement provides immediate and meaningful monetary relief to the Class. The  
20 Class is comprised of just under 1,500 individuals, many of whom are non-English speaking,  
21 migrant farm workers earning modest wages. The estimated payment will equate to nearly a  
22 week's worth of wages for each Class Member. Importantly, there have been no objections to the  
23 terms of the Settlement by Class Members and not a single Class Member has opted out of the  
24 Settlement. This factor also favors approval.

25 **6. Plaintiff has the Benefit of Extensive Discovery that Permitted Class Counsel to**  
26 **Calculate Class Damages and Make Informed Decisions Regarding Settlement.**

27 Courts look to the amount of exchanged information prior to the settlement to  
28 determine whether the parties made an informed decision to settle. *Linney v. Cellular Alaska*  
*P'ship* (9th Cir. 1998) 151 F.3d 1234, 1239. Here, as the Court preliminarily found, "significant

1 investigation and research has been conducted and that counsel for the parties . . . are able to  
2 reasonably evaluate substantial costs, delay and risks that would be presented by the further  
3 prosecution of the litigation. . .” The Parties have litigated this matter for more than 3.5 years,  
4 taken numerous depositions, exchanged literally thousands of pages of written discovery and filed  
5 multiple motions to compel based thereon. These exchanged documents and information  
6 informed the Parties about the merits of Plaintiff s claims and Defendants’” defenses and  
7 enabled them to accurately estimate the Class' damages. This candid assessment of the claims  
8 and defenses was further aided by the mediation process and the assistance of a nationally-  
9 recognized mediator specializing exclusively in employment litigation, including class actions.  
10 The comprehensive discovery in this matter, along with the evidence proffered in support of  
11 and in opposition to substantive motions in this case, supports approval of the Settlement.

12 **7. The Settlement is Supported by Skilled and Experienced Class Counsel.**

13 “‘Great weight’ is accorded to the recommendation of counsel, who are most closely  
14 acquainted with the facts of the underlying litigation. This is because ‘[p]arties represented by  
15 competent counsel are better positioned than courts to produce a settlement that fairly reflects each  
16 party’s expected outcome in the litigation.’ Thus, ‘the trial judge, absent fraud, collusion, or the  
17 like, should be hesitant to substitute its own judgment for that of counsel.’” *Nat’l Rural Telecomms.*  
18 *Coop.*, 221 F.R.D. at 528.

19 Class Counsel having demonstrated a high degree of competence in the litigation of this  
20 case, and numerous other wage and hour, PAGA and class action cases, strongly believe that the  
21 proposed Settlement properly balances the realistic monetary relief available to the Class against  
22 the magnitude of the risks of continued litigation and, thus is a fair, adequate, and reasonable  
23 resolution of the Class Action which is preferable to continued litigation. Class Counsel came to  
24 recommend this Settlement only after more than 3.5 years of litigation; numerous depositions;  
25 exhaustive written discovery; multiple discovery motions, a hotly contested motion for class  
26 certification; and mediation. Class Counsel's opinion of the Settlement is further supported by  
27 that of an experienced and impartial mediator who assisted the Parties in reaching this  
28 Settlement. This factor favors approval.

1           **8.     The Overwhelmingly Positive Reaction of the Class Favors Approval.**

2           Multiple courts have made clear that the number or percentage of class members who  
3 object to or opt out of the settlement is a factor of great significance. See *Mandujano v. Basic*  
4 *Vegetable Prods., Inc.* (9th Cir. 1976) 541 F.2d 832, 837; see also *In re Am. Bank Note*  
5 *Holographies, Inc.* (S.D.N.Y. 2001) 127 F. Supp. 2d 418, 425 ("it is well settled that that  
6 reaction of the class to the settlement is perhaps the most significant factor to be weighed in  
7 considering its adequacy." (internal quotes and citation omitted). Courts have confirmed that  
8 a relatively low percentage of objectors or opt outs is a very strong sign of fairness that factors  
9 heavily in favor of approval. See *Cody v. Hillard* (D.S.S. 2000) 88 F. Supp. 2d 1049, 1059-60  
10 (approving the relevant settlement in large part because only 3% of the apparent class had  
11 objected to the settlement); *In re Dun & Bradstreet Credit Servs. Customer Litig.* (S.D. Ohio  
12 1990) 130 F.R.D. 366, 372 (approving the relevant settlement and affording "substantial  
13 weight" to the fact that fewer than 5% of the class members elected to opt out of the  
14 settlement); *In re Art Materials Antitrust Litig.*, (N.D. Ohio 1983) 100 F.R.D. 367, 372  
15 (approving the settlement and holding that the fact that none of the class members had  
16 objected and a small percentage opted out of the settlement was "entitled to nearly dispositive  
17 weight").

18           As discussed above, after receiving the Notice of Pendency, not a single Class Member  
19 has objected to the Settlement or opted to exclude him or herself therefrom. This factor strongly  
20 supports final approval of the Settlement.

21           **D.     THE CLASS REPRESENTATIVE'S REQUESTED ENHANCER IS GRANTED.**

22           Plaintiff's requested enhancer of \$7,000 is approved as reasonable, well-justified and  
23 consistent with awards approved by courts in other similar wage and hour cases. The  
24 requested enhancer is approved because (1) Plaintiff expended significant time and effort to move  
25 this litigation forward and to ultimately resolve it; (2) Plaintiff assumed the risk of commencing  
26 and participating in the lawsuit, which risk subjected him to adverse actions in his farming  
27 community and negative notoriety; (3) Plaintiff exposed himself to the risks of Defendants' costs if  
28 he lost at trial, which could have totaled tens if not hundreds of thousands of dollars; (4) Plaintiff

1 furthered the twin California public policy goals of enforcing the Labor Code and making  
2 appropriate use of the class action device; (5) the requested award constitutes just 1% of the  
3 total Settlement Amount; (6) Defendants do not oppose the enhancer; and (7) not one Class  
4 Member has objected to it despite receiving notice of the same.

5 **E. CLASS COUNSEL IS GRANTED ITS REQUESTED AWARD OF ATTORNEYS'**  
6 **FEES AND COSTS.**

7 Plaintiff's requested award of attorneys' fees of \$210,000, which is 30% of the total  
8 Settlement Amount of \$700,000 is granted as fully justified under the common fund approach and  
9 confirmed by the lodestar/multiplier crosscheck. The requested fee award achieves the dual  
10 purposes of a common fund award by spreading the litigation costs among those who  
11 benefited from the settlement while rewarding and encouraging competent counsel to  
12 handle complex contingency cases. The award is also a fair charge to the Class for the  
13 benefits conferred and consistent with the legal marketplace. Finally, fee awards of 30%  
14 are commonly recognized as justified and appropriate in both California and the Ninth  
15 Circuit.<sup>1</sup>

16 Class Counsel has obtained an excellent result for the Class and has demonstrated a  
17 high degree of skill and quality of work in this matter. Class Counsel has also undertaken the  
18 financial burden of litigating this 3.5-year-old case on a purely contingency basis by advancing  
19 tens of thousands of dollars in actual costs and expending more than 1,000 hours without  
20 compensation at the risk of no recovery. The Ninth Circuit has long recognized that the  
21 assumption of contingent risk is a factor favoring an upward departure from the 25% benchmark.  
22 *In re Wash. Pub. Power Supply Sys. Sec. Litig.* (9th Cir. 1994) 19 F.3d 1291, 1299.

23 Class Counsel's request for \$30,982.07 in litigation costs is also granted insofar as these  
24 costs were necessarily incurred in the prosecution of this action.

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26 <sup>1</sup> See, e.g., *Contreras* (S.F. Cnty. Super. Ct. Sept. 3, 2010) (fee award of one-third of  
27 \$16,650,000 fund in wage and hour settlement); *Wren v. RGIS Inventory Specialists*, (N.D.  
28 Cal. Apr. 1, 2011) No. C-06-05778, JCS, 2011 WL 1230826, at \*29 (approving fee award  
that constituted 42% of the common fund in wage and hour class and collective action);  
*Cicero*, 2010 WL 2991486, at \*6 (noting that fees of one-third are common in wage and  
hour settlements below \$10 million, citing cases).



1 **F. OVERVIEW OF THE SETTLEMENT AS APPROVED.**

2 A summary of the pertinent terms of Settlement approved by this Order are as follows:

- 3 1. Settlement Amount – Defendants will deposit \$700,000.00 into the Settlement Trust  
4 Account. This is a fixed common fund, non-reversionary settlement and none of it shall  
5 revert back to Defendants.
- 6 2. Class Definition and Class Period – The Class is defined all individuals as who worked for  
7 Defendants as Harvest Crew Workers between October 11, 2008 and April 30, 2012.
- 8 3. Scope of Release and Final Judgment – The Class will release all claims alleged in the  
9 Class Action, as well as any claims related to the subject matter thereof. Once the  
10 Settlement becomes final and the settlement funds distributed, the Parties will seek  
11 dismissal of the entire case with prejudice and final judgment on all of the Class Claims.
- 12 4. Method of Allocation – The amount available for distribution to the individual Participating  
13 Class Members will equal the maximum Settlement Amount less the Court-approved  
14 payment to the Labor and Workforce Development Agency, costs of the Claims  
15 Administrator, enhancer for Plaintiff's service as Class Representative, and Class Counsel's  
16 attorneys' fees and costs. After deducting the aforementioned costs, the Claims  
17 Administrator will pay the remainder of the Settlement Amount, estimated to be  
18 \$421,092.93, to the Participating Class Members on a pro rata basis.
- 19 5. Settlement Administration – Consistent with the Court's instruction, Simpluris, Inc., acting  
20 as Claims Administrator, has, among other things, distributed the Notice of Pendency, in  
21 both English and Spanish, via first class mail, to all Class Members, processed and updated  
22 Class Member addresses against the National Change of Address Database, calculated the  
23 individual settlement payments, set up a toll-free number for Class Member questions, and  
24 answered questions from Class Members. There were no opt-outs and/or objections to the  
25 Settlement. Now that the Settlement is approved, the Claims Administrator will also mail  
26 the Notice of Approval, draw and distribute checks to Participating Class Members, file any  
27 necessary tax paperwork and report to the Court regarding the same. The Claims  
28 Administrator's costs are estimated to be \$17,800, but shall not exceed \$18,500.

- 1 6. Class Notice – The Court-Approved Notice of Pendency fairly and adequately advised  
2 Class Members of the terms of the Settlement, how to receive a payment, how payments  
3 would be calculated and how to object and/or opt-out in both English and Spanish. The  
4 Court finds that the Notice of Pendency comported with all constitutional requirements and  
5 that the Class Members have been provided the best practicable notice.
- 6 7. Tax Consequences of Settlement Payments – Payments will be treated as one-third wages,  
7 one-third interest and one-third penalties. Participating Class Members will be responsible  
8 for paying income taxes owed on the amounts they receive. Tax paperwork will be  
9 distributed by the Claims Administrator.
- 10 8. PAGA Penalties / Payment to the Labor and Workforce Development Agency – \$17,500.00  
11 of the Settlement Amount should designated and paid as civil penalties for violations of the  
12 Labor Code, and pursuant to the Private Attorneys General Act (“PAGA”). The Claims  
13 Administrator will pay twenty-five (25) percent of this amount to the Class Members and  
14 will pay the remaining seventy-five (75) percent of this amount to the California Labor and  
15 Workforce Development Agency, in accordance with Labor Code section 2699(i).
- 16 9. Plaintiff’s Enhancer for Serving as Class Representative – Plaintiff is hereby granted an  
17 enhancer of \$7,000, or 1% of the total settlement amount, in recognition of his service as  
18 Class Representative. The specific grounds for, evidence, and legal authority supporting  
19 the requested enhancer were set forth in Plaintiff’s Motion for Attorneys’ fees, Costs and  
20 Enhancer and discussed above.
- 21 10. Class Counsel’s Attorneys’ Fees and Costs – Class Counsel, Mayall Hurley P.C., is hereby  
22 granted an attorneys’ fees award of 30% of the Settlement Amount, which is \$210,000.00,  
23 as well as \$30,982.007 in litigation costs. The specific grounds for, evidence, and legal  
24 authority supporting the requested award were set forth in Plaintiff’s Motion for Attorneys’  
25 fees, Costs and Enhancer and discussed above.
- 26 11. The Court Retains Jurisdiction – The Court retains jurisdiction over this matter for purposes  
27 of enforcing the Settlement, addressing administrative matters, and addressing such post-  
28 judgment matters as may be appropriate under Court rules and applicable law.

1 **G. SCHEDULE.**

2 The Court orders the following implementation schedule for the final administration of the  
 3 Settlement:

<u>Deadline</u>	<u>Action</u>
30 calendar days after the Effective Settlement Date (defined as the first of the following: (a) the failure of any person with standing to file objections to the Settlement or otherwise object to the Settlement at or before the Hearing; (b) expiration of all potential appeal and writ periods without an appeal or other request for writ review having been filed; (c) final affirmance of any and all orders issuing out of any timely appeal or writ review, or final dismissal or denial of all such appeals or writ proceeding; or (d) final disposition of any supplemental or subsequent proceedings resulting from any appeal or writ proceeding.	Defendants must deposit the Settlement Amount into the Settlement Trust Account established by the Claims Administrator in order to make all payments due under the Settlement.
Within 10 calendar days of funding.	Claims Administrator must mail the Notice of Approval to the Class Members
Within 10 calendar days of funding.	Claims Administrator shall draw and distribute the following checks: <ul style="list-style-type: none"> <li>- \$13,125 to the Labor and Workforce Development Agency; and</li> <li>- \$240,982.07 to Mayall Hurley P.C.</li> </ul>
Within 30 calendar of funding.	Claims Administrator shall draw and distribute settlement checks to Participating Class Members.
Within 30 calendar of funding.	Claims Administrator shall draw and distribute a check in the amount of \$7,000 to Adelino Perez Torres for his services as Claims Representative.
180 days after mailing checks to Participating Class Members	Claims administrator shall draw and distribute a check to itself for estimated amount of \$17,800, but no more than \$18,500, for its services in administering the Settlement.
180 days after mailing checks to Participating Class Members	Claims Administrator shall draw and distribute settlement checks to Participating Class Members who cashed their checks.

1 **H. CONCLUSION.**

2 The Court has reviewed the terms of the Settlement and finds that the Settlement is fair,  
3 adequate, and reasonable when balanced against the possible outcome of further litigation relating  
4 to class certification, liability, and damages. The further Court finds further that settlement at this  
5 time will avoid substantial additional costs and will avoid the delay and risks presented by  
6 continued prosecution of the litigation. The Court also finds that the settlement has been reached  
7 in after arm's-length negotiations between the Parties and in good faith pursuant to Code of Civil  
8 Procedure section 877.6.

9  
10  
11 **DATED:** 8/9/06

  
\_\_\_\_\_  
**BARBARA A. KRONLUND**  
**JUDGE OF THE SUPERIOR COURT**